

AMENDED IN ASSEMBLY JUNE 17, 2014

AMENDED IN SENATE MAY 27, 2014

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AMENDED IN SENATE APRIL 21, 2014

AMENDED IN SENATE MARCH 24, 2014

SENATE BILL

No. 1266

**Introduced by Senator Huff
(Coauthor: Senator Hill)**

February 21, 2014

An act to amend Section 4119.2 of the Business and Professions Code, and to amend Section 49414 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1266, as amended, Huff. Pupil health: epinephrine auto-injectors.

~~Existing~~

(1) *Existing* law authorizes a school district or county office of education to provide emergency epinephrine auto-injectors to trained personnel, and authorizes trained personnel to use ~~those~~ epinephrine auto-injectors to provide emergency medical aid to persons suffering from an anaphylactic reaction. Existing law authorizes each public and private elementary and secondary school in the state to designate one or more school personnel on a voluntary basis to receive initial and annual refresher training regarding the storage and emergency use of an epinephrine auto-injector, as specified. Existing law authorizes a school nurse, or a person who has received the training described above if the school does not have a school nurse, to, among other things, obtain

a prescription for epinephrine auto-injectors, as specified. Existing law authorizes a pharmacy to furnish epinephrine auto-injectors to a school district or county office of education if certain requirements are met: *auto-injectors*.

This bill would *instead* require school districts, county offices of education, and charter schools to provide emergency epinephrine auto-injectors to *school nurses and* trained personnel who have volunteered, as specified, and would authorize *student nurses and* trained personnel to use those epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction. *The bill would require school districts, county offices of education, and charter schools to distribute a notice requesting volunteers at least once a year.* The bill would require a school nurse, nurse or, if the school has a volunteer, a school administrator if an employee has volunteered, as specified, and the school does not have a school nurse or the school nurse is not onsite or available, administrator to obtain the prescription for epinephrine auto-injectors, as specified, and would authorize the prescription for epinephrine auto-injectors to be filled by local or mail order pharmacies or epinephrine auto-injector manufacturers. *The bill would authorize a pharmacy to also furnish epinephrine auto-injectors to a charter school if certain conditions are met.* The bill would require an epinephrine auto-injector *auto-injectors* to be restocked as soon as possible after it is used and before its expiration date, by the school nurse or school administrator, or the school district or county office of education on behalf of a school nurse or school administrator of any school in the school district or county, or by a charter operator on behalf of charter schools in accordance with specified provisions. *By imposing additional duties on local educational agencies, the bill would impose a state-mandated local program.*

(2) Existing law requires the Superintendent of Public Instruction to establish minimum standards of training for the administration of epinephrine auto-injectors, as specified, and requires a school district or county of office of education to create a plan relating to their use.

The

This bill would revise the training requirements, and would require the Superintendent to review the minimum standards of training at least every 5 years. The bill would require the school nurse or voluntarily designated employee to report any incident of epinephrine auto-injector use to the school district, county office of education, or chartering

~~authority on a form developed by the State Department of Education within 30 days after the last day of each school year. The bill would require the school district, county office of education, or chartering authority to report any incident of epinephrine auto-injector use to the department on those forms. delete the requirement for creating a plan, and would impose specified reporting requirements relating to the use of epinephrine auto-injectors on specified school employees, local educational agencies, and the State Department of Education.~~ The bill would require a school district, county office of education, or charter school to ensure that each employee who volunteers is provided defense and indemnification by the school district, county office of education, or charter school for any and all civil liability, as specified. The bill would authorize a *state agency, the State Department of Education, or a public school* to accept gifts, grants, and donations from any source for the support of the public school carrying out these ~~provisions~~.

~~By provisions.~~ By requiring local educational agencies to perform additional duties related to epinephrine auto-injectors, the bill would impose a state-mandated local program.

(3) *Existing law authorizes a pharmacy to furnish epinephrine auto-injectors to a school district or county office of education if certain requirements are met.*

This bill would also authorize a pharmacy to furnish epinephrine auto-injectors to charter schools pursuant to those provisions.

~~The~~

(4) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4119.2 of the Business and Professions
- 2 Code is amended to read:
- 3 4119.2. (a) Notwithstanding any other law, a pharmacy may
- 4 furnish epinephrine auto-injectors to a school district, county office

1 of education, or charter school pursuant to Section 49414 of the
2 Education Code if all of the following are met:

3 (1) The epinephrine auto-injectors are furnished exclusively for
4 use at a school district site, county office of education, or charter
5 school.

6 (2) A physician and surgeon provides a written order that
7 specifies the quantity of epinephrine auto-injectors to be furnished.

8 (b) Records regarding the acquisition and disposition of
9 epinephrine auto-injectors furnished pursuant to subdivision (a)
10 shall be maintained by the school district, county office of
11 education, or charter school for a period of three years from the
12 date the records were created. The school district, county office
13 of education, or charter school shall be responsible for monitoring
14 the supply of epinephrine auto-injectors and ensuring the
15 destruction of expired epinephrine auto-injectors.

16 SEC. 2. Section 49414 of the Education Code is amended to
17 read:

18 49414. (a) School districts, county offices of education, and
19 charter schools shall provide emergency epinephrine auto-injectors
20 to *school nurses or* trained personnel who have volunteered
21 pursuant to subdivision (d), and *school nurses or* trained personnel
22 may use ~~those~~ epinephrine auto-injectors to provide emergency
23 medical aid to persons suffering, or reasonably believed to be
24 suffering, from an anaphylactic reaction.

25 (b) For purposes of this section, the following terms have the
26 following meanings:

27 (1) “Anaphylaxis” means a potentially life-threatening
28 hypersensitivity to a substance.

29 (A) Symptoms of anaphylaxis may include shortness of breath,
30 wheezing, difficulty breathing, difficulty talking or swallowing,
31 hives, itching, swelling, shock, or asthma.

32 (B) Causes of anaphylaxis may include, but are not limited to,
33 an insect sting, food allergy, drug reaction, and exercise.

34 (2) “Epinephrine auto-injector” means a disposable drug delivery
35 system with a spring-activated needle that is designed for
36 emergency administration of epinephrine to provide rapid,
37 convenient first aid for persons suffering a potentially fatal reaction
38 to anaphylaxis.

39 (3) “*Volunteer*” or “*trained personnel*” means an employee
40 who has volunteered to administer epinephrine auto-injectors to

1 *a person if the person is suffering, or reasonably believed to be*
 2 *suffering, from anaphylaxis, and has been designated by a school*
 3 *and has received training pursuant to subdivision (d).*

4 (c) Each private elementary and secondary school in the state
 5 may voluntarily determine whether or not to make emergency
 6 epinephrine auto-injectors and trained personnel available at its
 7 school. In making this determination, a school shall evaluate the
 8 emergency medical response time to the school and determine
 9 whether initiating emergency medical services is an acceptable
 10 alternative to epinephrine auto-injectors and trained personnel. A
 11 private elementary or secondary school choosing to exercise the
 12 authority provided under this subdivision shall not receive state
 13 funds specifically for purposes of this subdivision.

14 (d) Each public and private elementary and secondary school
 15 in the state may designate one or more ~~school personnel on a~~
 16 ~~voluntary basis~~ *volunteers* to receive initial and annual refresher
 17 training, based on the standards developed pursuant to subdivision
 18 (e), regarding the storage and emergency use of an epinephrine
 19 auto-injector from the school nurse or other qualified person
 20 designated by the *physician and surgeon employed by or*
 21 *contracting with the* local educational ~~agency physician, agency,~~
 22 the medical director of the local health department, or the local
 23 emergency medical services director.

24 (e) (1) Every five years, or sooner as deemed necessary by the
 25 Superintendent, the Superintendent shall review minimum
 26 standards of training for the administration of epinephrine
 27 auto-injectors that satisfy the requirements of paragraph (2). For
 28 purposes of this subdivision, the Superintendent shall consult with
 29 organizations and providers with expertise in administering
 30 epinephrine auto-injectors and administering medication in a school
 31 environment, including, but not limited to, the State Department
 32 of Public Health, the Emergency Medical Services Authority, the
 33 American Academy of Allergy, Asthma and Immunology, the
 34 California School Nurses Organization, the California Medical
 35 Association, the American Academy of Pediatrics, Food Allergy
 36 Research and Education, the California Society of Allergy, Asthma
 37 and Immunology, the American College of Allergy, Asthma and
 38 Immunology, and others.

39 (2) Training established pursuant to this subdivision shall include
 40 all of the following:

1 (A) Techniques for recognizing symptoms of anaphylaxis.
2 (B) Standards and procedures for the storage, restocking, and
3 emergency use of epinephrine auto-injectors.

4 (C) Emergency followup procedures, including calling the
5 emergency 911 telephone number and contacting, if possible, the
6 pupil's parent and physician.

7 (D) ~~Instruction~~ *Recommendation on the necessity of instruction*
8 and certification in cardiopulmonary resuscitation.

9 (E) Instruction on how to determine whether to use an adult
10 epinephrine auto-injector or a junior epinephrine ~~auto-injector~~.
11 *auto-injector, which shall include consideration of a pupil's grade*
12 *level or age as a guideline of equivalency for the appropriate pupil*
13 *weight determination.*

14 (F) Written materials covering the information required under
15 this subdivision.

16 (3) Training established pursuant to this subdivision shall be
17 consistent with the most recent Voluntary Guidelines for Managing
18 Food Allergies In Schools and Early Care and Education Programs
19 published by the federal Centers for Disease Control and
20 Prevention and the most recent guidelines for medication
21 administration issued by the department.

22 (4) A school shall retain for reference the written materials
23 prepared under subparagraph (F) of paragraph (2).

24 (f) *A school district, county office of education, or charter school*
25 *shall distribute a notice at least once per school year to all staff*
26 *that contains the following information:*

27 (1) *A description of the volunteer request stating that the request*
28 *is for volunteers to be trained to administer an epinephrine*
29 *auto-injector to a person if the person is suffering, or reasonably*
30 *believed to be suffering, from anaphylaxis, as specified in*
31 *subdivision (b).*

32 (2) *A description of the training that the volunteer will receive*
33 *pursuant to subdivision (d).*

34 (f)
35 (g) (1) ~~A school nurse or, if the school does not have a school~~
36 ~~nurse or the nurse, if the school nurse is not onsite or available, a~~
37 ~~school administrator if an employee has volunteered pursuant to~~
38 ~~subdivision (d); shall obtain from the local educational agency~~
39 ~~physician; a physician and surgeon employed by or contracting~~
40 ~~with the local educational agency, the medical director of the local~~

1 health department, or the local emergency medical services director
 2 a prescription for epinephrine auto-injectors that, at a minimum,
 3 includes, for elementary schools, one regular epinephrine
 4 auto-injector and one junior epinephrine auto-injector, and for
 5 junior high or middle schools and high schools, if there are no
 6 pupils who require a junior epinephrine auto-injector, one regular
 7 epinephrine auto-injector. ~~The prescription may be filled by local~~
 8 ~~or mail order pharmacies or epinephrine auto-injector~~
 9 ~~manufacturers.~~ *The school nurse shall be responsible for stocking*
 10 *and restocking epinephrine auto-injectors in accordance with this*
 11 *section.*

12 (2) *If a school nurse is not onsite or available and the school*
 13 *has a volunteer, the school administrator shall obtain from a*
 14 *physician and surgeon employed by or contracting with the local*
 15 *educational agency, the medical director of the local health*
 16 *department, or the local emergency medical services director a*
 17 *prescription for epinephrine auto-injectors that, at a minimum,*
 18 *includes, for elementary schools, one regular epinephrine*
 19 *auto-injector and one junior epinephrine auto-injector, and for*
 20 *junior high or middle schools and high schools, if there are no*
 21 *pupils who require a junior epinephrine auto-injector, one regular*
 22 *epinephrine auto-injector. The school administrator shall be*
 23 *responsible for stocking and restocking the epinephrine*
 24 *auto-injectors in accordance with this section.*

25 (3) *Notwithstanding paragraphs (1) and (2), a school district*
 26 *or county office of education, on behalf of the school nurse or*
 27 *school administrator of any school, in that school district or county,*
 28 *may obtain the prescriptions for epinephrine auto-injectors*
 29 *required in paragraphs (1) and (2), and a charter operator, on*
 30 *behalf of the school nurse or school administrator of any charter*
 31 *school in the school district or county, may obtain the prescriptions*
 32 *for epinephrine auto-injectors required in paragraphs (1) and (2).*
 33 *The school district or county office of education, or, for a charter*
 34 *school, the charter operator, may stock and restock the epinephrine*
 35 *auto-injectors in accordance with the requirements specified in*
 36 *paragraphs (1) and (2).*

37 (4) *A prescription pursuant to this subdivision may be filled by*
 38 *local or mail order pharmacies or epinephrine auto-injector*
 39 *manufacturers.*

40 (g)

1 (h) A school nurse, or if the school does not have a school nurse
2 or the school nurse is not onsite or available, a ~~volunteer designee~~
3 ~~who has received training pursuant to subdivision (d),~~ *volunteer*,
4 may administer an epinephrine auto-injector to a person exhibiting
5 potentially life-threatening symptoms of anaphylaxis at school or
6 a school activity when a physician is not immediately available.
7 If the epinephrine auto-injector is used it shall be restocked as soon
8 as reasonably ~~possible~~. *possible, but no later than two weeks after*
9 *it is used.* Epinephrine auto-injectors shall be restocked before
10 their expiration date.

11 ~~(h)~~
12 (i) ~~A person who has received training as set forth in subdivision~~
13 ~~(d)~~ *volunteer* shall initiate emergency medical services or other
14 appropriate medical followup in accordance with the training
15 materials retained pursuant to paragraph (4) of subdivision (e).

16 (i) ~~No later than 30 days after the last day of each school year,~~
17 ~~the school nurse or voluntarily designated employee shall report~~
18 ~~any incident of epinephrine auto-injector use to the school district,~~
19 ~~county office of education, or chartering authority on a form~~
20 ~~developed by the department. The school district, county office of~~
21 ~~education, or chartering authority shall report any incident of~~
22 ~~epinephrine auto-injector use to the department on the form~~
23 ~~developed by the department.~~

24 (j) *No later than 72 hours after an incident of epinephrine*
25 *auto-injector use, the school nurse or the volunteer, in conjunction*
26 *with the school administrator, shall report the incident to the*
27 *school district, county office of education, or chartering authority*
28 *on a form developed by the department in conjunction with the*
29 *California School Nurses Organization, the California Emergency*
30 *Medical Services Authority, and the American Academy of*
31 *Pediatrics. The school district, county office of education, or*
32 *chartering authority shall report the data using the California*
33 *Longitudinal Pupil Achievement Data System. The department*
34 *shall annually publish a summary of the data on its Internet Web*
35 *site.*

36 ~~(j)~~
37 (k) A school district, county office of education, or charter
38 school shall ensure that each employee who volunteers under this
39 section will be provided defense and indemnification by the school
40 district, county office of education, or charter school for any and

1 all civil liability, in accordance with, but not limited to, that
2 provided in Division 3.6 (commencing with Section 810) of Title
3 1 of the Government Code. This information shall be reduced to
4 writing, provided to the volunteer, and retained in the volunteer's
5 personnel file.

6 ~~(k)~~

7 *(l) A state agency, the department, or a public school may*
8 *accept gifts, grants, and donations from any source for the support*
9 *of the public school carrying out the provisions of this section,*
10 *including, but not limited to, the acceptance of epinephrine*
11 *auto-injectors from a manufacturer or wholesaler.*

12 SEC. 3. If the Commission on State Mandates determines that
13 this act contains costs mandated by the state, reimbursement to
14 local agencies and school districts for those costs shall be made
15 pursuant to Part 7 (commencing with Section 17500) of Division
16 4 of Title 2 of the Government Code.

O